

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless, U-3060, U-4135 and U-4314, and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.

Investigation 02-06-003
(Filed June 6, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
AMENDING SCOPING MEMO TO REVISE SCHEDULE**

Background and Discussion

By motion filed September 6, 2002, the Commission's Consumer Protection and Safety Division (CPSD) seeks modification of the scoping memo in this proceeding to authorize distribution of its prepared testimony on October 9, 2002, rather than September 6. In its response filed on October 10, Cingular Wireless (Cingular) opposes CPSD's request for more time unless the November 12 date for distribution of Cingular's prepared testimony is extended also.

CPSD argues that a number of problems underlie its request and warrant the grant of an additional two weeks and five days. It attributes the greatest problem to the pace of discovery in this proceeding, but identifies other problems, including staffing constraints within CPSD and the fiscal

consequences of late approval of the State's budget, which prevented it from hiring a consultant earlier. CPSD proposes that the additional time it requests should be deducted from the time the schedule provides for Cingular (seven weeks and four days). Cingular's response is largely devoted to challenging CPSD's tacit contention that the discovery delays are wholly attributable to Cingular's inaction or obstruction and therefore, warrant such a "penalty." Cingular also asserts that CPSD has been slow to respond to discovery propounded by Cingular.

The lack of an approved State budget until earlier this month created numerous fiscal difficulties for the Commission. CPSD's contracting problem is one of them and warrants a schedule adjustment, since it was a matter clearly beyond CPSD's control. The revised schedule, below, provides for the additional time that CPSD requests but also attempts to limit the impact on Cingular in order to ensure that Cingular continues to have a reasonable period of time to prepare its defense. To accomplish this end, the limited amount of "slack" in the schedule has been absorbed and three days have been added to the evidentiary hearing schedule, so that, if necessary, a later start can be accommodated.

As the parties are well aware, an adjudicatory proceeding such as this one must be resolved within 12 months of the date it is filed unless a Commission order, pursuant to Pub. Util. Code § 1701.2(d), extends the timeline. Though each party suggests that the statutory 12-month deadline for resolving this case may prove too short, neither has filed a motion for a Commission-ordered extension.

Revised Schedule

Pursuant to Rule 45(h) of the Commission's Rules of Practice and Procedures. The schedule for this proceeding is revised as follows:

October 9, 2002	Staff and intervenors distribute prepared testimony
November 22, 2002	Respondent distributes prepared testimony
December 3, 2002	Staff and intervenors distribute prepared rebuttal testimony
December 9, to be continued day to day through December 23, 2002	Evidentiary Hearing, Commission Courtroom, 505 Van Ness Avenue, State Office Building, San Francisco, CA 94102

The remainder of the schedule is unchanged and will continue as previously scheduled.

IT IS RULED that:

1. The September 6, 2002 motion of Consumer Protection and Safety Division to amend the scooping memo and revise the schedule is granted, as set out herein.
2. The revised schedule for this proceeding is set forth herein.

Dated September 12, 2002, at San Francisco, California.

/s/ JEAN VIETH

Jean Vieth
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Amending Scoping Memo to Revise Schedule on all parties of record in this proceeding or their attorneys of record.

Dated September 12, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

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